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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM,1979

NO 79-6237

A.C.NO 79-8260

D.C.NO CIVIL R-79-164 BRT

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REYNA RODRIGUES,
APPELLANT

-AGAINST-

THE CITY OF SPARKS,NEVADA
AND
THE STATE OF NEVADA ,
RESPONDENTS.

APPELLANT HEREBY APPEAL FROM THE UNITED STATES

COURT OF APPEALS FOR THE NINTH CIRCUIT:

REYNA RODRIGUES.APPELLANT
640 TEEL ST
SPARKS,NEVADA 89431

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IN THE
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM,1979

NO_____
A.C.NO 79-8260
D.C.NO CIVIL R-79-164 BRT

REYNA RODRIGUES,
APPELLANT.

-AGAINST-

THE CITY OF SPARKS,NEVADA
AND
THE STATE OF NEVADA,
RESPONDENTS.

PETITION FOR APPEAL FROM THE NINTH CIRCUIT COURT OF APPEALS OF THE UNITED STATES:

APPELLANT,REYNA RODRIGUES,THAT A APPEAL ISSUE TO REVIEW THE JUDGMENT OF THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT,ENTERED JAN 4th 1980,DENYING THE APPELLANT THE RIGHT TO APPEAL,(SEE APPENDIX A.). APPELLANT APPEAL TO THE NINTH CIRCUIT COURT OF APPEALS,FROM A JUDGMENT OF THE UNITED STATES DISTRICT COURT OF THE DISTRICT OF NEVADA,AT RENO,WHEN IT DENIED THE APPELLANT THE RIGTH TO AN APPEAL,FROM THE SUPREME COURT OF THE STATE OF NEVADA:(SEE APPENDIX B AND C).

QUESTONS PRESENTED

I-DID THE APPELLANT HAVE THE RIGHT TO BRING TO THE ATTANTION ERROR'S OF LAW THAT ARE AFFECTING SUBSTANTIAL RIGHTS OF THE APPELLANT:

2-DID THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT HAVE THE RIGHT TO DENY THE APPELLANT THE RIGHT TO AN APPEAL:

3- DID THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA AT RENO HAVE THE RIGHT TO DENY THE APPELLANT THE RIGHT TO AN APPEAL:

4-DID THE SUPREME COURT FOR THE STATE OF NEVADA HAVE THE RIGHT TO DENY THE APPEALLANT THE RIGHT AN APPEAL:

CONSTITUTIONAL PROVISIONS INVOLVED

THE CONSTITUTIONAL PROVISIONS INVOLVED ARE THE FOLLOWING AMENDMENT

AMENDMENT(I) THE RIGHT TO A REDRESS:

" (V) THE DUE PROCESS OF THE LAW:

" (XIV) THE EQUAL PROTECTION OF THE LAW:

" (XIV) THE DUE PROCESS OF THE LAW:

" (IX)THE ENUMERATION OF CERTIAN RIGHT'S:

ARTICAL (VI) SECTION 2)OF THE CONSTITUTION OF THE UNITED STATES:

AMENDMENT (VIII)EXCESSIVE FINES SHALL NOT BE IMPOSED:

II

STATMENT OF THE CASE

ON MARCH 7th 1979.THE SPARKS MUNICIPAL COURT FOUND THE APPELLANT REYNA RODRIGUES,GUILTY OF VIOLATING CITY CODE IO-60-I6o,DRIVING WITH A REVOKED DRIVERS LICENSE,THE APPELLANT WAS GIVEN A SENTENCE OF TEN DAYS IN JAIL AND A FINE OF $400.00,.ON MARCH I2th1979, NOTICE OF APPEAL WAS FILED,ON MARCH 28th1979,AN APPEAL WAS FILED WITH THE SECOND JUDICIAL DISTRICT COURT FOR THE STATES OF NEVADA IN AND FOR THE COUNTY OF WASHOE,ON JUNE 8th I979,A HEARING WAS HELD AT THE HEARING THE APPELLANT PRESENTED THE FOLLOWING FACTS,

THE CONSTITUTION OF THE UNITED STATES ,ARTCICLE 6th.SECTION 2) THE CONSTITUTION AND LAWS OF THE UNITED STATES WHICH SHALL BE MADE IN PURSUANCE THEREOF,AND ALL TREATIES MADE,OR WHICH SHALL BE MADE, UNDER THE AUTHORITY OF THE UNITED STATES,SHALL BE THE SUPREME LAW OF THE LAND,AND THE JUDGES IN EVERY STATE SHALL BE BOUND THEREBY:, ANTHING IN THE CONSTITUTION OR LAWS OF ANY STATE TO THE CONTRARY IS WITH OUT STANDING).:

THE NEVADA STATE LAW THAT CONVICTED THE APPELLANT WAS IN VIOLATION OF THE CONSTITUTION OF THE UNITED STATES,THEREFORE IT CAN NOT STAND. THE REVOCATION THAT LEAD TO THIS CONVICTION CAME FROM A SENTENCE IMPOSED BY THE CARSON CITY NEVADA JUSTICE COURT ON AUGEST 22nd 1976.THE REVOCATION WAS NOT HANDED DOWN FROM THIS CONVICTION UNTILL JUNE I977,BY THE STATE OF NEVADA NEAR ONE YEAR AFTER THE ABOVED

CONVICTION TO RUN FOR TWO YEARS ,UNTILL JUNE OF 1979,HOWEVER THE APPELLANT DRIVERS LICENCE EXPIRED ON MARCH 6th1978,THEREFORE UNDER LAW THE APPELLANT CAN NOT BE FOUND GUILTY OF SOMETHING THAT DO NOT EXIST,THE APPELLANT WAS GUILTY OF NOTHING MORE THEN DRIVING WITH OUT A DRIVERS LICENES OF WHICH THE MAXIMUM FINE FOR THIS IN THE STATE OF NEVADA IS A FINE OF $100.00,THE APPELLANT TRYED TO PLEA GUILTY TO THIS BUT THE SPARKS MUNICIPAL COURT WOULD NOT EXCIPT THIS,,THEREFORE VOILATING THE 14th AMENDMENT OF THE CON--STITUTION OF THE UNITED STATES, (NO STATE SHALL DEPRIVE ANY PERSON OF LIFE LIBERTY NOR PROPERTY,WITH OUT THE DUE PROCESS OF LAW: NOR DENY TO ANY PERSON WTTHIN ITS JURISDICTION THE EQUAL PROTECTION OF THE LAWS) .ARTICLE 8th OF THE CONSTITUTION IS VERY CLEAR(EXCESSIVE FINES SHALL NOT BE IMPOSED,) SINCE THE MAXIMUM FINE THAT COULD BE IMPOSED FOR DRIVING WITH OUT A DRIVERS LICENCES IN THE STATE OF NEVADA IS A FINE OF $100.00,THE SECOND JUDICIAL DISTRICT COURT FOR THE STATE OF NEVADA,IN UPHOLDING THE CONVICTION OF THE SPARKS MUNICIPAL COURT DID INFACT VIOLATE THE 8th AMENDMENT OF THE CONSTITUTION OF THE UNITED STATES,THEREFORE THE ABOVED SENTENCE CAN NOT STAND,AND IS OPEN FOR ATTACK:,ON JUNE 1^thI979, the appellant filed a PETITION FOR HABEAS CORPUS UNDER 28 U.S.C. 2254.IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA,AT RENO,SEEKING RELIEF,THE ABOVED COURT DENIED THIS PETITION ON THE GROUNDS THAT THE APPELLANT DID NOT EXHAUST ALL STATE REMEDIES,(SEE APPENDIX D).THE APPELLANT THEN FILED A PETITION FOR CERTIORARI INTO THE SUPREME COURT FOR THE STATE OF NEVADA,ON JULY 8th I979,THE SUPREME COURT FOR THE STATE OF NEVADA,ON JULY I8th 1979,TEH SUPREME COURT FOR THE STATE OF NEVADA DENIED THE APPELLANT PETITION CERTIORARE WITHOUT A HEARING,(SEE APPENDIXC),NO JULY 24th I979,THE APPELLANT ONCE AGAIN FILED A PETITION OF HABEAS CORPUS UNDER 28.U.S.C.2254,IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA AT RENO,ON AUGUST 9th 1979,THE UNITE STATES DISTRICT COURT FOR THE STATE OF NEVADA ONCE AGAIN DENIED THE APPELLANT PETITION THIS TIME ON THE GROUNDS THAT THE STATE OF NEVADA SUPREME COURT WAS NOT THE PROPER METHOD OF EXHAUSTING STATE REMEDIES,(SEE

APPENDIX B),ON AUGUST 29th1979,THE APPELANT FILED AN APPEAL IN TO THE NINITH CIRCUIT COURT OF APPEALS FOR THE UNITED STATES AT SAN FRANCISCO CAIL,ON JAN 4th 1979,THE APPELLANT PETITION TOBE ALLOWED TO APPEAL WAS DENIED (SEE APENDIX A),

III
ARGUMENTS

THE APPELLANT WAS DENIED HER RIGHT TO THE DUE PROCESS OF LAW AS GUARANTEED BY THE FOURTEETH AMENDMENT,WHEN THE STATE OF NEVADA DENIED THE APPELLANT THE RIGHT TO A HEARING ,AND NOW THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA AND THE NINTH CIR--CUIT COURT OF APPEALS FOR THE UNITED STATES,ALSO STANDS IN VIOLATION OF THE APPELLANT RIGHT TO THE DUE PROCESS OF LAW WHEN THE ABOVED COURTS DENIED THE APPELLANTTHE RIGHT TO A HEARING, IF THE DUE PROCESS OF LAW IS TOBE UPHELD AS A GUARANTEE UNDER THE CONSTUTITION OF THE UNITED STATES,THEN THE APPELLANT IS GUARANTEED A HEARING UNDER HABEAS CORPUS,ARTICLE 6th OF THE CONSTITUTION IS VERY CLERR AS TO THE DUTY OF EVERY JUDGE WITHIN EVERY STATE INTO UPHOLDING THE RIGHTS OF A PERSON THAT COMES WITH IN ITS JURESDICTION ,THE ABOVED COURTS HAVE TAKEN IT UPON THEM SELFS TO VIOLATE EVERY RIGHT THE APPELLANT HAVE THAT IS GUARANTEED HER UNDER THE CONSTITUT--ION,(AMENDMENT I4th SECTION I) ALL PERSON BORN OR NATURALIZED IN THE UNITED STATES AND SUBJECT TO THE JURISDICTION THEREOF ARE CITIZEN OF THE UNITED STATES AND OF THE STATE WEREIN THEY RESIDE, NO STATE SHALL MAKE OR ENFORCE ANY LAWS WHICH SHALL ABRIDGE THE PRIVILEGES OR IMMUNITIES OF CITIZENS OF THR UNITED STATES:OR SHALL OR SHALL ANY STATE DEPRIVE ANY PERSON OF LIFE,LIBERTY OR PROPERTY, WITHOUT THE DUE PROCESS OF LAW: NOR DENY TO ANY PERSON WITHIN ITS JURISDICTION THE EQUAL PROTECTION OF THE LAW:) THE DUE PROCESS OF LAW VARIES WITH THE SUBJECT MATTER AND NECESSITIES OF THE SITUATION APPROPIETTED TO THE CASE AND JUST TO THE PARTIES AFFECTED,IT MUST BE ADOPTED TO THE END TO BE ATTAINED,AND WHENEVER NECESSARY TO THE PROTECTION OF THE PARTYS,IT MUST GIVE THEM AN OPPORTUNITY TOBE HEARD RESPECTING OF THE JUDGMENT SOUGHT,THE DUE PROCESS OF THE LAW MUST BE HELD TO PRESERVED THE PRINCIPAL OF LIBERTY,AND JUSTICE TO

ALL PARTIES,IN DUE PROCESS THE COURTS IN EVERY STATE MUST REGULATE THE MANNER IN WHICH RIGHTS ARE UPHELD AND WRONGS REMENDED,TO DENY ACCESS TO COURTS TOBE HEARD IS SUBJECT TO RESTRICTION A VIOLATION OF THE I4th AMENDMENT,(SEE INSURANCE CO.V.GLIDDEN CO.284 U.S.I5I. I58 (I93I) IOWA CENTRAL RY.CO.V.IOWA,I60 U.S.389,393 (I893). HONEYMEN.V.HANAN,302 U.S.375(I937) SEE ALSO LINDSEY.V. NORMET, 405 U.S. 56 (I972). ANGELY.V.BULLINGTON,330 U.S. I83 (I947), HOLMES.V.CONWAY,24I U.S. 624,63I (I916);THE UNITED STATES DISTRICT COURT OF THE STATE OF NEVADA AT RENO, DID DENY THE APPELLANT FRIST PETITION FOR HABEAS CORPUS ON THE GROUNDS,THAT THE APPELLANT DID NOT GO TO THE SUPREME COURT FOR THE STATE OF NEVADA FRIST,IN CERTIORARI, THE APPELLANT DID SHORTLY THERE AFTER FILED IN THE SUPREME COURT FOR THE STATE OF NEVADA,A PETITION FOR CERTIORARE UNDER N.R.S. 34.020(3),AND ON THE I8th OF JULY I979,THE SUPREME COURT FOR THE STATE OF NEVADA DID DENIED THE APPELLANT PETITION WITHOUT A HEARING ,THE APPELLANT ONCE AGAIN FILED INTO THE UNITED STATES DISTRICT COURT AT RENO,NEVADA,A HABEAS CORPUS UNDER 28,2254 U.S.C. THE APPELLANT PETITION THIS TIME WAS DISMISSED WITH OUT A HEARING ON THE GROUNDS THAT THE STATE OF NEVADA SUPREME COURT WAS NOT THE APPROPRIOTE METHOD OF EXHAUSTING STATE REMEDIES:,THE UNITED STATES DISTRICT COURT AT RENO NEVADA,IS INFACT DENYING THE APPELLANT ONE WAY ONE TIME THEN TURNING RIGHT AROUND AND DENYING THE APPELLANT THE OTHER WAY, THERE IS NO QUESTON HERE AS TO THE CONSTITUTIONAL VIOLATION UPON THE APPELLANT IN THIS MATTER BY THE ABOVED COURTS, THE APPELLANT THEN WANT TO THE NINTH CIRCUIT COURT OF APPEALS ,IN HOPE OF HAVING HER RIGHTS UPHELED,BUT THE NINTH CIRCUIT COURT OF APPEALS FOR THE UNITED STATES,ALSO TOOK IT UPON ITS SELF TO FURTHERE VIOLALE THE APPELLANT CONSTITUTIONAL RIGHT WHEN IT ALSO DENIED THE APPELLANT WITH OUT A HEARING,THEREFORE LIVING THE APPELLANT WITH NO OTHER COURSE BUT TO BRING THIS MATTER BEFORE THIS COURT IN HOPES FOR JUSTICE AND FIAR PLAY:. THE CONSTITUTION IS MADE VERY CLEAR AS TO THE RIGHTS OF THE PERSON SEEKING JUSTICE :.

IV.

CONCLUION

FOR THE ABOVED REASONS THE APPELLANT RESPECTFULLY REQUESTS THIS COURT TO REMAND THIS CASE,AND GRANT THE APPELLANT WHAT EVER THIS COURT FEELS IS JUST AND PROPER IN THIS MATTER:.

RESPECTFULLY SUBMITTED

BY _____

REYNA RODRIGUES,APPELLANT
640 TEEL ST
SPARKS,NEVADA 89431

conuty of washoe)
state of nevada) ;s.s.

DATED THIS 19 TH DAY OF THE YEAR 1980.

ENTERED
JUN 20 1979
CLERK U. S. DISTRICT COURT
DISTRICT OF NEVADA
BY Deputy DEPUTY

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DEPUTY

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEVADA

REYNA RODRIGUES,

Petitioner,

vs.

THE STATE OF NEVADA,

Respondent.

Civil No. R-79-129-HEC

DECISION AND ORDER

/

The Petitioner, Reyna Rodrigues, has submitted a petition for writ of habeas corpus under 28 U.S.C. §2254 in which she attacks the constitutionality of a conviction in the Sparks Municipal Court.

On March 7, 1979, the Petitioner was convicted in the Sparks Municipal Court for driving with a revoked drivers license in violation of the city code. The court sentenced her to ten days in jail and fined her $400. On March 28, 1979, the Petitioner appealed to the Second Judicial Court of the State of Nevada, and a hearing was held on June 8, 1979.

The conviction in March 1979 arose out of a sentence imposed by the Carson City Justice Court on August 22, 1976, revoking the Petitioner's drivers license for a period of two years from June 1977 to June 1979. Since Reyna Rodrigues' drivers license expired on March 6, 1978, she contends that she should have been fined no more than $100 for the infractio

of operating a motor vehicle without a drivers license. Reyna Rodrigues wanted to plead guilty to that crime, but the Municipal Court Judge would not accept her plea.

The Petitioner contends that her rights have been violated under the Eighth and Fourteenth Amendments of the United States Constitution and under Article VI, §2 of the United States Constitution.

The threshold question in federal habeas corpus actions is whether the Petitioner has exhausted the available state remedies.[1/] It is the policy of this Court that before state remedies have been exhausted, the highest court of the state must have had an opportunity to pass upon the merits of the petition. Under Article VI, §6 of the State of Nevada Constitution, the Nevada Supreme Court does not have jurisdiction for appellate review of a district court judgment which was entered on an appeal from a municipal court. The Petitioner can, however, file a petition for certiorari under NRS 34.020(3). Cortez v. Mirin, 92 Nev. 198, 547 P. 2d 688 (1976).

Based on the foregoing,

IT IS HEREBY ORDERED:

1. That the petition for writ of habeas corpus, submitted by Reyna Rodrigues, is denied.

DATED: June 18, 1979.

UNITED STATES DISTRICT JUDGE

[1/] Although the complaint indicates that a hearing was held on appeal in the Second Judicial District Court of the State of Nevada, it does not say whether that court has rendered a decision. I assume for purposes of this issue that it has. If it has not, this petition would also be dismissed for failure to exhaust state remedies.

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Appellant -

79-6237

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

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ORIGINAL

REYNA RODRIGUES,
APPELLANT

VS.

THE CITY OF SPARKS,
RESPONDENT,

NO_____

D.C.NO CIVIL R-79-164 BRT

BRIEF OF THE APPELLANT

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FILED _____ _____
DOCKETED _____ _____
DATE INITIAL

BY David Rodrigues
DAVID RODRIGUES, FOR REYNA RODRIGUES,
APPELLANT

640 TEEL ST
SPARKS, NEVADA 89431

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IN THE UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

REYNA RODRIGUES,
APPELLANT

VS.

THE CITY OF SPARKS
RESPONDENT,

NO_____

D.C.NO CIVIL R-79-164 BRT

BRIEF OF THE APPELLANT

I.

STATEMENT OF ISSUE PRESENTED FOR REVIEW

WHETHER APPELLANT WAS DENIED HER RIGHT TO DUE PROCESS OF LAW AS GUARANTEED BY THE FOURTEENTH AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES, WHEN THE SUPREME COURT FOR THE STATE OF NEVADA,AND THE UNITED STATES DISTRICT COURT FOR THE STATE OF NEVADA AT RENO,DENIED THE APPELLANT APPEAL WITHOUT A HEARING:.

II,

STATEMENT OF THE CASE

ON MARCH 7th 1979,THE SPARKS MUNICIPAL COURT FOUND THE APPELLANT GUILTY OF VIOLATING CITY CODE IO-60-I60, DRIVING WITH A REVOKED DRIVERS LICENCSE THE APPELLANT WAS SENTENCE TO TEN DAYS IN JAIL AND ALSO GIVEN A FINE OF $400.00,ON MARCH I2th 1979,NOTICE OF APPEAL WAS FILED,ON MARCH 28th 1979,AN APPEAL WAS FILED WITH THE SECOND JUDICIAL DISTRICT COURT FOR THE STATE OF NEVADA,IN AND FOR THE COUNTY OF WASHOE AT RENO,ON JUNE 8th 1979,A HEARING WAS HELD,AT THIS HEARING THE APPELLANT

PRESENTED THE FOLLOWING FACTS, THE CONSTITUTION OF THE UNITED STATES ARTICLE 6th SECTION 2,(THE CONSTITUTION AND LAWS OF THE UNITED STATES WHICH SHALL BE MADE,IN PURSUANCE THEREOF,AND ALL TREATIES MADE,OR WHICH SHALL BE MADE,UNDER THE AUTHOITY OF THE UNITED STATES,SHALL BE THE SUPRERE LAW OF THE LAND,AND THE JUDGES IN EVERY STATE SHALL BE BOUND THEREBY, T ANYTHING IN THE CONSTITUTION OF LAWS OF ANY STATE TO THE CONTRARY IS WITHOUT STANDING:.).THE APPELLANT ARGUED THAT THE LAW OF THE STATE OF NEVADA THAT CONVICTED THE APPELLANT WAS IN VIOLATION OF THE CONSTITUTION OF THE UNITED STATES,AND THEREFORE IT CAN NOT STAND,THE REVOCATION THAT LEAD TO THIS CONVICTION CAME FROM A SENTENCE IMPOSED BY THE CARSON CITY JUSTICE COURT ON AUGUST 22nd 1976,THE REVOCATION WAS NOT HEANDED DOWN FROM THIS CONVICTION UNTILL JUNE 1977,BY THE STATE OF NEVADA,NEAR ONE YEAR AFTER THE CONVICTION TO RUN FOR TWO YEARS UNTILL JUNE OF 1979, HOWEVER THE APPELLANT DRIVERS LICENCE EXPIRED ON MARCH 6th 1978,THEREFORE UNDER LAW THE APPELLANT CAN NOT BE FOUND GUILTY OF SOMETHING THAT DO NOT EXIST,THE APPELLANT WAS GUITY OF NOTING MORE THEN DRIVING WTTH OUT A DRIVERS LICENCE OF WHICH THE MAXIMUM FINE FOR THIS IN THE STATE OF NEVADA A FINE OF $100.00.THE APPELLANT TRYED TO ENTERED A PLEA OF GUILTY TO DRIVING WITHOUT A DRIVRES LICENCE BUT THE ABOVED COURT WOULD NOT EXCIPT THIS ,THEREFORE VIOLATING THE FOURTEETH AMENDMENT OF THE CONSTITUTION OF THE UNITED STATES AS WELL,TO-WIT(NO STATE SHALL DENY TO ANY PERSON WITHIN ITS JURISDICTION THE EQUAL PROTECTION OF THE LAW,). THE APPELLANT ALSO ARGUED THAT THE 8th AMENDMENT OF THE CONSTITUTION IS BEING VIOLATED SINCE THE MAXIMUM FINE FOR DRIVING WITHOUT A DRIVERS LICENCE WITHIN THE STATE OF NEVADA IS A FINE OF $100.00,THE FINE IMPOSED BY THE SENTECING COURT WAS A FINE OF $400.00.AND A TEN DAYS JAIL SENTECE AS WELL THE COURT HEREBY ORDERD THE APPELLANT TO PAY THE $400.00.FINE BUT DISMISSED THE TEN DAYS JAIL SENTENCE,(SEE COPY OF ORDER APPX(I).TABLE OF CONTENTS).

ON JUNE 12th 1979,APPELLANT FILED A PETITION FOR HABEAS CORPUS UNDER 28 U.S.C. 2254.IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF

NEVADA AT RENO,SEEKING RELIEF,THE ABOVED COURT DENIED THIS PETITION On THE GROUNDS THAT THE APPELANT DID NOT EXHAUST ALL STATE REMEDIES,(SEE COPY OF THIS ORDER TABLE OF CONTENTS PAGE "2),ON JUNE 28th 1979,THE APPELANT FILED A PETITION FOR CERTIORARI IN THE SUPREME COURT FOR THE STATE OF NEVADA,ON JULY 8th 1979,THE SUPREME COURT FOR THE STATE OF NEVADA DENIED THE APPELANT PETITION FOR CERTIORARI WITHOUT A HEARING,(SEE COPY ON TABLE OF CONTENTS PAGE"3),ON JULY 24th 1979,APPELLANT ONCE AGAIN FILED A PETITION OF HABBEAS CORPUS UNDER 28 U.S.C.2254,IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA AT RENO,ON AUGUST 9th 1979,THE UNITED STATES DISTRICT COURT FOR THE STATE OF NEVADA ONCE AGAIN DENIED THE APPELLANT PETITION ON THE GROUNDS THAT THE STATE SUPREME COURT IS NOT THE PROPER METHOD OF EXHAUSTING STATE REMEDIES,(SEE COPY OF PETITION AND ORDER TABLE OF CONTENTS PAGE 4,),.

III.
ARGUMENTS

THE APPELLANT WAS DENIED HER RIGHT TO THE DUE PROCESS OF LAW,AS GURRANTEED BY THE FOURTEETH AMENDMENT,WHEN THE STATE OF NEVADA DENIED THE APPELLANT THE RIGTH TO A HEARING,AND NOW THE UNITED STATES DISTRICT COURT FOR THE STATE OF NEVADA AT RENO,ALSO STANDS IN VIOLATION OF THE APPELLANT RIGHT TO THE DUE PROCESS OF LAW,WHEN THIS COURT ALSO DENIED THE APPELLANT THE RIGHT TO A HEARING ON HABEAS CORPUS:.IF THE DUE PROCESS OF LAW IS TOBE UPHELD AS A GUARANTEE UNDER THE CONSTITUTION OF THE UNITED STATES,THEN THE APPELLANT IS GUARANTEED A HEARING UNDER HABEAS CORPUS,ARTICLR 6th OF THE CONSTITUTION IS VERY CLEAR AS TO THE DUTY OF EVERY JUDGE WITHIN EVERY STATE INTO UPHOLDING THE RIGTHS OF A PERSON THAT COMES WITHIN ITS JURESDIC-TION,THE ABOVED COURTS HAVE TAKEN IT UPON THEM SELFS TO VIOLATE EVERY RIGHT THE APPELLANT HAVE THAT IS GUARANTEED HER UNDER THE CONSTITUTION, THE SUPERE COURT OF THE UNITED STATES HAVE GONE A LONG WAYS ALONG THIS

IN UPHOLDING THE RIGHTS OF A PERSON WHEN VIOLATED,(AMENDMENT 14th SECTION I)ALL PERSON BORN OR NATURALIZED IN THE UNITED STATES AND SUBJECT TO THE JURISDICTION THEREOF ARE CITIZEN OF THE UNITED STATES AND OF THE STATE W WHEREIN THEY RESIDE.NO STATE SHALL MAKE OR ENFORCE ANY LAWS WHICH SHALL ABRIDGE THE PRIVILEGES OR IMMUNITIES OF CITIZENS OF THE UNITED STATES : OR SHALL ANY STATE DEPRIVE ANY PERSON OF LIFE,LIBERTY,OR PROPERTY,WITH OUT THE DUE PROCESS OF LAW:NOR DENY TO ANY PERSON WITHIN ITS JURISDICTION THE EQUAL PROTECTION OF THE LAW:.THE DUE PROCESS OF LAW VARIES WITH THE SUBJECT MATTER AND NECESSITIES OF THE SITUATION APPROPIEATED TO THE CASE AND JUST TO THE PARTIES AFFECTED,IT MUST BE ADOPTED TO THE END TO BE ATT--AINED, AND WHENEVER NECESSARY TO THE PROTECTION OF THE PARTYS,IT MUST GIVE THEM AN OPPORTUNITY TOBE HEARD RESPECTING OF THE JUDGMENT SOUGHT, THE DUE PROCESS OF THE LAW MUST BE HELD TO PRESERVED THE PRINCIPAL OF LIBERTY, AND JUSTICE TO ALL PARTIES,IN DUE PROCESS THE COURTS IN EVERY STATE MUST REGULATE THE MANNER IN WHICH RIGTHS ARE UPHELD AND WRONGS REMENDED,TO DENY ACCESS TO COURTS TOBE HEARD IS SUBJECT TO RESTRICTION A VIOLATION OF THE 14th AMENDMENT,SEE,INSURANCE CO.V.GLIDDEN CO.284 U.S. 151,158(1931),IOWA CENTRAL RY.CO.V.IOWA,160 U.S. 389,393(1893).; HONEYMEN.V.HANAN,302 U.S.375(1937).SEE ALSO LINDSEY.V.NORMET,405 U.S. 56,1972).ANGEL.V.BULLINGTON,330 U.S.183(1947).Holmes..V.Conway,241 U.S. 624,631(1916), THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA AT RENO DID DENY APPELLANT FRIST PETITION FOR HABEAS CORPUS ON THE GROUNDS,THE APPELLANT DID NOT GO TO THE SUPREME COURT FOR THE STATE OF NEVADA FRIST IN CERTIORARI,THE APPELLANT DID SHORTLY THEREAFTER FILE IN THE SUPREME COURT FOR THE STATE OF NEVADA A PETITION FOR CERTIORARE UNDER N.R.S.34.020(3),ON JULY 181979,THE SUPREME COURT FOR THE STATE OF NEVADA DENIED THE APPELLANET PETITION WITHOUT A HEARING,THE APPELLANT ONCE AGAIN FILED INTO THE UNITED STATES DISTRICT COURT AT RENO,A HABEAS CORPUS UNDRE 28 2254 U.S.C.THE APPELLANT PETITION THES TIME WAS DISMISSED WITHOUT A HEARING ON THE GROUNDS THAT THE STATE OF NEVADA SUPREME COURT

IS NOT THE APPROPRIOTE METHOD OF EXHAUSTING STATE REMEDIES:,THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA AT RENO,IS INFACT DENYING THE APPELLANT ONE WAY ONE TIME AND TURNING RIGHT AROUND AND DENYING THE APPELLANT THE OTHER WAY,THERE IS NO QUESTION HERE AS TO THE CONSTITUTIONAL VIOLATION UPON THE APPELLANT IN THIS MATTER BY THE ABOVED COURTS:.

IV.

CONCLUSION

FOR THE ABOVED REASONS,THEAPPELLANT RESPECTFULLY REQUESTS THIS COURT TO REMAND THIS CASE TO THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA AT RENO,FOR A FULL AND FAIR HEARING ON THE FACTS AND CERCUMSTANCES SURROUNDING THIS CASE:,.

RESPECTFULLY SUBMITTED

BY David Rodrigues
DAVID RODRIGUES,FOR REYNA RODRIGUES,APPELLANT
640 TEEL ST
SPARKS,NEVADA 89431

COUNTY OF WASHOE)
:s.s.
STATE OF NEVADA)

DATED THIS 29th DAY OF AUGUST 1979.

No. C79-416 Dept. No. 3

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

FILED
JUN 11 A9:32

CITY OF SPARKS,

Plaintiff,

vs.

REYNA RODRIGUES,

Defendant.

/

O R D E R

On June 8, 1979, in the above-named Court, trial was held in this case, plaintiff being represented by Steven Elliott, and defendant being represented by her husband, David Rodrigues, as a friend of the Court. The Court, deeming itself sufficiently advised in the premises,

NOW, THEREFORE, IT IS HEREBY ORDERED that defendant is found guilty of Driving during a period of Revocation, in violation of Sparks Municipal Code Section 10.60.155C. Defendant is sentenced to pay a fine of $400.00.

The case is remanded to Sparks Municipal Court for execution of sentence.

DATED this 11th day of June, 1979.

John E. Gabrielli

DISTRICT JUDGE

A9(2)

RECEIVED
JUN 12 3 21 PM '79
CAROL [illegible]
BY [illegible]

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEVADA AT RENO NEVADA

REYNA RODRIGUES,
PETITIONER

V.

THE STATE OF NEVADA,
RESPONDENT, NO CV-R-79-129HES

HABEAS CORPUS UNDER 28 U.S.C.& 2254

(I)
BACKGROUD ON MARCH 7th 1979,THE SPARKS MUNICIPAL COURT FOUND THE PETITIONER REYNA RODRIGUES,GUILTY OF VIOLATING CITY CODE IO-60-I60,DRIVING WITH A REVOKED DRIVERS LICENSE,THE PETITIONER WAS SENTENCE TO TEN DAYS IN JAIL AND ALSO FINED $400,00.
ON MARCH I2th I979,NOTICE OF APPEAL WAS FILED,ON MARCH 28th I979, AN APPEAL WAS FILED WITH THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA IN AND FOR THE COUNTY OF WASHOE (SEEATTTACH COPY).ON JUNE 8th I979.A HEARING WAS HELDDAT THIS HEARING THE P PETITIONER PRESENTED THE FOLLOWING FACTS,THE CONSTITUTION OF THE UNITED STATES ARTICLE 6.SECTION 2,THE CONSTITUTION AND LAWS OF THE UNITED STATES WHICH SHALL BE MADE IN PURSUANCE THEREOF,AND ALL T TREATIES MADE,OR WHICH SHALL BE MADE,UNDER THE AUTHORITY OF THE UNITED STATES,SHALL BE THE SUPREME LAW OF THE LAND,AND THE JUDGES IN EVERY STATE SHALL BE BOUND THEREBY,ANYEING IN THE CONSTITUTION OR LAWS OF ANY STATE TO THE CONTRARY IS WITH OUT STANDING).
THE NEVADA STATE LAW THAT CONVICTED THE PETITICNER WAS IN VIOLAT--ION OF THE CONSTITUTION OF THE UNITED STATES AND CAN NOT STAND.
THE REVOCATION THAT LEAD TO THIS CONVICTIONCOME FROM A SENTICES IMPOSED BY THE CARSON CITY JUSTICE COURT ON AUGUST 22,I976.THE REVOCATION WAS NOT HANDED DOWN FROM THIS CONVICTION UNTILL JUNE I977,BY THE STATES OF NEVADA,NEAR ONE YEAR AFTER THE ABOVED CON--VICTION TO RUN FOR TWO YEARS UNTILL JUNE I979,HOWEVER THE

PETITIONER DRIVERS LICENCE EXPIRED ON MARCH 6th 1978,THEREFORE UNDER LAW THE PETITIONER CAN NOT BE FOUND GUILTY OF SOMETHING THAT DO NOT EXIST,THE PETITIONER WAS GUILTY OF NOTTHING MORE THEN DRIVING WITH OUT A DRIVERS LICENCE OF WHICH THE MAXIMUM FINE FOR THIS IS A FINE OF $100.00,THE PETITIONER TRYED TO PEEA GUILTY TO THIS BUT THE ABOVED COURTS WOULD NOT EXCIPT THIS,THEREFORE VIOLA--THING THE 14th AMENDMENT OF THE CONSTITUTION OF THE UNITED STATES, (NO STATE SHALL DEPRIVE ANY PERSON OF LIFE LIBERTY,OR PROPERTY, WITHOUT THE DUE PROCESS OF LAW:NOR DENY TO ANY PERSON WITHIN ITS JURISDICTION THE EQUAL PROTECTION OF THE LAWS,).ARTICLE 8th OF THE CONSTITUTION IS VERY CLEAR (EXCESSIVE BAIL SHALL NOT BE REQUIRED, NOR EXCESSIVE FINES IMPOSED,NOR CRUEL AND UNUSUAL PUNISMENT INFLICTED.),SINCE THE MAXIMUM FINE THAT COULD BE IMPOSED FOR DRIVING WITHOUT A DRVERS LICENCE IS $100.00,IN THE STATE OF NEVADA, THE SECOND JUDICIAL DISTRICT COURT FOR THE STATE OF NEVADA IN UPHOLDING THE CONVICTION OF THE SPARKS MUNICIPAL COURT DID INFACT VIOLATE THE 8th AMENDMENT OF THE CONSTITUTION OF THE UNITED STATES, THEREFORE THE ABOVED SENTENCE CAN NOT STAND AND IT IS OPEN FOR ATTACK,:.

(2)

CONCLUION

(1) IT IS RESPECTFULLY REQUESTED THAT THIS UNITED STATES DISTRICT COURT SET FORT A HEARING INTO THIS MATTER AND THE RESPON--DENTS BE MADE TO SHOW BY WHAT LAWS THEY HOLD THE PETITIONER CONVICTED OF,.

(2) IT IS ALSO REQUESTED THAT THIS COURT ISSUE AN ORDER SETTING ASIDE THE ABOVED SENTENCE UNTILL ALL LEGAL REVENUES HAVE BEEN EXHAUSTED,:THE PETITIONER PRAYS THAT THE COURT GRANT THE PETITIONER RELIEF TO WHICH SHE BE ENTITLED IN THIS PROCEEDING:.

EXECUTED AT RENO,COUNTY OF WASHOE,IN THE STATE OF NEVADA, WHEREFORE THE PETITIONER RAYNA RODRIGUES,BEING FRIST DULY SWORN UNDER OATH, PRESENTS THAT SHE HAS READ AND SUBSCRIBED TO THE ABOVED AND STATES THAT THE INFORMATION THEREIN IS TRUE AND CORRECT.

_____
REYNA RODRIGUES,PETITIONER

SUBSCRIBED AND SWORN BEFOER ME THIS 12th DAY OF JUNE,1979.

_____
NOTARY OF PUBLIC

BY_____
DAVID RODRIGUES, FOR THE PETITIONER
640 TEEL ST
SPARKS,NEVADA 89431

(3) A-14

RECEIVED
AND FILED

IN THE SUPREME COURT FOR THE STATE OF NEVADA

REYNA RODRIGUES,
PETITIONER

V.

THE CITY OF SPARKS,
RESPONDENT
/

DOCKET NO_____

PETITION FOR CERTIORARI UNDER NRS (34.020(3).

(I)
BACKGROUND ON MARCH 7th 1979,THE SPARKS MUNICIPAL COURT FOUND THE PETITIONER REYNA RODRIGUES,GUILTY OF VIOLATING CITY CODE I0-60-I60,DRIVING WITH A REVOKED DRIVERS LICENSE, THE PETITIONER WAS SENTENCE TO TEN DAYS IN JAIL AND ALSO FINED $400.00. ON MARCH I2th I979,NOTICE OF APPEAL WAS FILED, ON MARCH 28th I979,AN APPEAL WAS FILED WITH THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA IN AND FOR THE COUNTY OF WASHOE,(SEE ATTACH COPY)ON JUNE 8thI979 A HEARING WAS HELD AT THIS HEARING THE PETITIONER PRESENTED THE FOLLOWING FACTS,THE CONSTITUTION AND LAWS OF THE UNITED STATES (ARTICLE 6th,SECTION 2,THE CONSTITUTION AND LAWS OF THE UNITED STATES WHICH SHALL BE MADE IN PURSUANCE THEREOF,AND ALL TREATIES MADE,OR SHALL BE MADE, UNDER THE AUTHORITY OF THE UNITED STATES, SHALL BE THE SUPREME LAW OF THE LAND,AND THE JUDGES IN EVERY STATE SHALL BE BOUND THEREBY,ANTHING IN THE CONSTITUTION OR LAWS OF ANY STATE TO THE CONTRARY IS WITH OUT STANDING).
THE NEVADA STATE LAW THAT CONVICTED THE PETITIONER WAS IN VIOLA--TION OF THE CONSTITUTION OF THE UNITED STATES AND CAN NOT STAAD. THE REVOCATION THAT LEAD TO THIS CONVICTION CAME FROM A SENTENCE IMPOSED BY THE CARSON CITY JUSTICE COURT ON AUGUST 22,I976.THE REVOCATION WAS NOT HANDED DOWN FROM THIS CONVICTION UNTILL JUNE I977,BY THE STATE OF NEVADA NEAR ONE YEAR AFTER THE ABOVED CON--VICTION

TO RUN FOR TWO YEARS UNTILL JUNE 1979,HOWEVER THE PETITIONER DRIVERS LICENCE EXPIRED ON MARCH 6th 1978,THEREFORE UNDER LAW THE PETITIONER CAN NOT BE FOUND GUILTY OF SOMETHING THAT DO NOT EXIST, THE PETI-TIONER WAS GUILTY OF NOTHING MORE THEN DRIVING WITH OUT A DRIVERS LICENCE OF WHICH THE MAXIMUM FINE FOR THIS IN THIS STATE IS A FINE OF 100.00 DALLORS,THE PETITIONER TRYED TO PLEA GUILTY TO THIS BUT THE ABOVED COURTS WOULD NOT EXCIPT THIS,THEREFORE VIOLATHING THE 14th AMENDMENT OF THE CONSTITUTION OF THE UNITED STATES,
(NO STATE SHALL DEPRIVE ANY PERSON OF LIFE LIBERTY,NOR PROPERTY, WITH OUT THE DUE PROCESS OF LAW:NOR DENY TO ANY PERSON WITHIN ITS JURISDICTION THE EQUAL PROTECTION OF THE LAWS:)ARTICLE 8th OF THE CONSTITUTION IS VERY CLEAR(EXCESSIVE BAIL SHALL NOT BE REQUIRED, NOR EXCESSIVE FINES IMPOSED,NOR CRUEL AND UNUSUAL PUNISHMENT INFLICTED.),SINCE THE MAXIMUM FINE THAT COULD BE IMPOSED FOR DRIVING WITH OUT A LICENCE IS $100.00,IN THE STATE OF NEVADA,THE SECOND JUDICIAL DISTRICT COURT FOR THE STATE OF NEVADA IN UPHOLDING THE CONVICTION OF THE SPARKS MUNICIPAL COURT DID INFACT VIOLATE THE 8th AMENDMENT OF THE CONSTITUTION OF THE UNITED STATES, THEREFORE THE ABOVED SENTENCE CAN NOT STAND AND IS OPEN FOR ATTACK:.
(2)

CONCLUSION

(1)IT IS RESPECTFULLY REQUESTED THAT THIS SUPREME COURT FOR THE STATE OF NEVADA TO SET FORT A HEARING INTO THIS MATTER AND THE RESPONDENT BE MADE TO SHOW BY WHAT LAWS THEY HOLD AS THE SUPREME LAWS OF THE LAND,AND BY WHAT LAW THEY HOLD THE PETITIONER CONVICTED OF :.

(2) IT IS ALSO REQUESTED THAT THIS COURT ISSUE AN ORDER SETTING AS ASIDE THE SENTENCE UNTILL ALL LEGAL REVENUES HAVE BEEN EXHAUSTED, THE PETITIONER PRAYS THAT THIS COURT GRANT THE PETITIONER RELIEF TO WHICH SHE IS ENTITLED IN THIS PROCEEDING:.

A-10

EXECUTED IN THE COUNTY OF WASHOE OF THE STATE OF NEVADA, WHEREFORE THE PETITIONER REYNA RODRIGUES,BEING FRIST DULY SWORN UNDER OATH, PRESENT THAT SHE HAS READ AND SUBSCRIBED TO THE ABOVED AND STATES THAT THE INFORMATION THEREIN IS TRUE AND CORRECT:.

Reyna Rodrigues
REYNA RODRIGUES,PETITIONER

SUBSCRIBED AND SWORN BEFORE ME THIS 27th DAY OF JUNE 1979:.

COURT CLERK

BY David Rodrigues
DAVID RODRIGUES,FOR THE PETITIONER
640 TEEL ST
SPARKS,NEVADA 89431

IN THE SUPREME COURT OF THE STATE OF NEVADA

REYNA RODRIGUES,
Petitioner,
vs.
THE CITY OF SPARKS,
Respondent.

No. 11956

FILED
JUL 18 1979
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

ORDER DENYING PETITION FOR WRIT OF CERTIORARI

The court having considered the petition on file herein, and not being satisfied that this court's intervention at this time by way of extraordinary writ is warranted, said petition is denied. NRAP 21(b).

It is so ORDERED.

, C. J.

, J.

, J.

cc: David Rodrigues
Steven P. Elliott, Sparks City Attorney
Alex A. Coon

(4)

IN THE UNITED STATES DISTRICT COURT FOR THE

DISTRICT OF NEVADA AT RENO NEVADA

REYNA RODRIGUES,
PETITIONER

VS.

THE CITY OF SPARKS
AND
THE STATE OF NEVADA,
RESPONDENTS, / NO CV-R-79-164-

HABEAS CORPUS UNDER 28 U.S.C.§ 2254

(I)
BACKGROUND ON MARCH 7th 1979, THE SPARKS MUNICIPAL COURT FOUND THE PETITIONER REYNA RODRIGUES, GUILTY OF VIOLATING CITY CODE N-60-160, DRIVING WITH A REVOKED DRIVERS LICENSE, THE PETITIONER WAS SENTENCE TO TEN DAYS IN JAIL AND ALSO FINED $400.00., ON MARCH 12th 1979, NOTICE OF APPEAL WAS FILED, ON MARCH 28th 1979, AN APPEAL WAS FILED WITH THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA IN AND FOR THE COUNTY OF WASHOE, ON JUNE 8th 1979, A HEARING WAS HELD AT THIS HEARING THE PETITIONER PRESENTED THE FOLLOWING FACTS, THE CONSTITUTION OF THE UNITED STATES ARTICLE 6. SECTION 2, THE CONSTITUTION AND LAWS OF THE UNITED STATES WHICH SHALL BE MADE IN PURSUANCE THEREOF, AND ALL TREATIES MADE, OR WHICH SHALL BE MADE, UNDER THE AUTHORITY OF THE UNITED STATES, SHALL BE THE SUPREME LAW OF THE LAND, AND THE JUDGES IN EVERY STATE SHALL BE BOUND THEREBY, ANYTHING IN THE CONSTITUTION OR LAWS OF ANY STATE TO THE CONTRARY IS WITH OUT STANDING).

THE NEVADA STATE LAW THAT CONVICTED THE PETITIONER ARE IN VIOLATION OF THE CONSTITUTION OF THE UNITED STATES THEREFORE IT CAN NOT STAND. THE REVOCATION THAT LED TO THIS CONVICTION CAME FROM A SENTENCE IMPOSED BY THE SPARKS CITY JUSTICE COURT ON AUGUST 22nd 1976. THE REVOCATION WAS NOT HANDED DOWN FROM THIS CONVICTION UNTIL

JUNE 1977,BY THE STATE OF NEVADA NEAR ONE YEAR AFTER THE ABOVED CONVICTION TO RUN FOR TWO YEARS UNTILL JUNE 1979,HOWEVER THE PETITIONER DRIVERS LICENCE EXPIRED ON MARCH 6th1978,THEREFORE UNDER LAW THE PETITIONER CAN NOT BE FOUND GUILTY OF SOMETHING THAT DO NOT EXIST,THE PETITIONER WAS GUILTY OF NOTHING MORE THEN DREVING WITH OUT A DRIVERS LICENCE OF WHICH THE MAXIMUM FINE FOR THIS IS A FINE OF $100.00,THE PETITIONER TRYED TO PLEA GUILTY TO THI BUT THE ABOVED COURT WOULD NOT EXCIPT THIS,THEREFORE VIOLATING THE 14th AMENDMENT OF THE CONSTITUTION OF THE UNITED STATES,(NO STATE SHALL DENY TO ANY PERSON WITHIN ITS JURISDICTION THE EQUAL PROTECTION OF THE LAWS,).ARTICLE 8th OF THE CONSTITUTION IS VERY CLEAR (EXCESSIVE FINES SHALL NOT BE IMPOSED,NOR CRUEL AND UNUSUAL PUNISHMENT INFLICTED.).SINCE THE MAXIMUM FINE THAT COULD BE IMPOSED FOR DRIVING WITH OUT A DRIVERS LICENCE IS $100.00,WITHIN THE STATE OF NEVADA,THEREFORE THE SECOND JUDICIAL DISTRICT COURT FOR THE STATE OF NEVADA IN DENYING THE PETITDONER RELIEF ON APPEAL DID INFACT VIOLATE THE 6th 8th AND 14th AMENDMENT OF THE CONSTITUTION OF THE UNITED STATES,THEREFORE THE ABOVED SENTENCE CAN NOT STAND AND IT IS OPEN FOR ATTACK UNDER LAW,:.

NO JUNE 12th 1979,THE PETITIONER FILED A PETITIONER FOR HABEAS CORPUS UNDER 28 U.S.C.§2254,IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA AT RENO NEVADA,SEEKING RELIEF,THIS COURT DENIED THIS PETITIONER ON THE GROUNDS THAT THE PETITIONER DID NOT EXHAUST ALL AVAILABLE STATE REMEDIES.,

ON JUNE 28th THE PETITIONER FILED A PETITION FOR CERTIORARI IN THE SUPREME COURT FOR THE STATE OF NEVADA ,ON JULY 18th 1979,THE SUPREME COURT OF THE STATE OF NEVADA DID INFACT DENY THE PETITIONER, PETITION FOR CERTIORARI WITH OUT A HEARING,THEREFORE PUTING THE PETITIONER BEON THE PROTECTION OF THE LAW AND DENYING THE PETITI--CNER THE EQUAL PROTECTION OF THE LAW,THE PETITIONER IS LIFT WITH NO OTHER RECOURSE BUT TO ONCE AGAIN PETITION THIS COURT UNDER HABEAS CORPUS INTO UPHOLDING THE PETITIONER CONSTITITIONAL RIGHTS,.

A-20

(20

CONCLUION

(1) IT IS RESPECFULLY REQUESTED THAT THIS UNITED STATES DISTRICT COURT SET FORTH A HEARING INTO THIS MATTER AND THE RESPON--DENTS BE MADE TO SHOW BY WHAT LAW THEY HOLD THE PETITIONER CON--VICTED OF AND WHICH LAWS THEY HOLD AS SUPREME LAWS ONTHIS LAND:

(2) IT IS ALSO REQUESTED THAT THIS COURT ISSUE AN ORDER SETTING ASIDE THE ABOVED SENTENCE UNTILL ALL LEGAL REVENUES HAVE BEEN EXHAUSTED,: THE PETITIONER PRAYS THAT THE COURT GRANT THE PETITIONER RELIEF TO WHICH SHE BE ENTITLED IN THIS PROCEEDING:.

EXECUTED AT RENO,COUNTY OF WASHOE,IN THE STATE OF NEVADA:, WHERFORE THE PETITICNER REYNA RODRIGUES,BEING FRIST DULY SWORN UNDER OATH,PRESENTS THAT SHE HAS READ AND SUBSCRIBED TO THE ABOVED AND STATES THAT THE INFORMATION THEREIN IS TRUE AND CORRECT:.

REYNA RODRIGUES,PETITICNER

SUBSCRIBED AND SWORN BEFORE THIS 24th DAY OF JULY 1979;.

CLERCK OF THE COURT

BY

DAVID RODRIGUES,FOR THE PETITIONER
640 TEEL ST
SPARKS,NEVADA 89431

A-21

ENTERED

AUG 09 1979

CLERK U S DISTRICT COURT
DISTRICT OF NEVADA
BY Mary Lodewin DEPUTY

RECEIVED
AND FILED

AUG 9 11 42 AM '79

CLERK
BY Mary Lodewin

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEVADA

RAYNA RODRIGUES,

Petitioner,

vs.

THE CITY OF SPARKS AND
THE STATE OF NEVADA,

Respondents,

Civil R-79-164 BRT

ORDER DISMISSING PETITION

A petition for certiorari to the Supreme Court of the State of Nevada is not the appropriate method of exhausting state remedies.

Accordingly,

The petition for habeas corpus is hereby dismissed.

DATED: August 9, 1979.

UNITED STATES DISTRICT JUDGE

app B (1)

ENTERED

AUG 09 1979

CLERK U S DISTRICT COURT
DISTRICT OF NEVADA
BY Mary Boldwin

RECEIVED
AND FILED

AUG 9 11 02 AM '79

CLERK
BY Mary Boldwin

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEVADA

RAYNA RODRIGUES, Civil R-79-164 BRT

Petitioner,

vs.

THE CITY OF SPARKS AND
THE STATE OF NEVADA,

Respondents,

/

ORDER DISMISSING PETITION

A petition for certiorari to the Supreme Court of the State of Nevada is not the appropriate method of exhausting state remedies.

Accordingly,

The petition for habeas corpus is hereby dismissed.

DATED: August 9, 1979.

Bruce R. Thompson
UNITED STATES DISTRICT JUDGE

App C 9

IN THE SUPREME COURT OF THE STATE OF NEVADA

REYNA RODRIGUES,
Petitioner,
vs.
THE CITY OF SPARKS,
Respondent.

No. 11956

FILED
JUL 18 1979
CLERK OF SUPREME COURT
BY Judith McCurdy
DEPUTY CLERK

ORDER DENYING PETITION FOR WRIT OF CERTIORARI

The court having considered the petition on file herein, and not being satisfied that this court's intervention at this time by way of extraordinary writ is warranted, said petition is denied. NRAP 21(b).

It is so ORDERED.

Zenoff, C. J.

Mowbray, J.

Batjer, J.

cc: David Rodrigues
Steven P. Elliott, Sparks City Attorney
Alex A. Coon

(2) C-4

RECEIVED
AND FILED

IN THE SUPREME COURT FOR THE STATE OF NEVADA

REYNA RODRIGUES,
PETITIONER

V.

THE CITY OF SPARKS,
RESPONDENT
/

DOCKET NO_____

PETITION FOR CERTIORARI UNDER NRS (34.020(3).

(I)
BACKGROUND ON MARCH 7th 1979,THE SPARKS MUNICIPAL COURT FOUND THE PETITIONER REYNA RODRIGUES,GUILTY OF VIOLATING CITY CODE IO-60-I60,DRIVING WITH A REVOKED DRIVERS LICENSE, THE PETITIONER WAS SENTINCE TO TEN DAYS IN JAIL AND ALSO FINED $400.00. ON MARCH I2th I979,NOTICE OF APPEAL WAS FILED, ON MARCH 28th I979,AN APPEAL WAS FILED WITH THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA IN AND FOR THE COUNTY OF WASHOE,(SEE ATTACH COPY)ON JUNE 8thI979 A HEARING WAS HELD AT THIS HEARING THE PETITIONER PRESENTED THE FOLLOWING FACTS,THE CONSTITUTION AND LAWS OF THE UNITED STATES (ARTICLE 6th,SECTION 2,THE CONSTITUTION AND LAWS OF THE UNITED STATES WHICH SHALL BE MADE IN PURSUANCE THEREOF,AND ALL TREATIES MADE,OR SHALL BE MADE, UNDER THE AUTHORITY OF THE UNITED STATES, SHALL BE THE SUPREME LAW OF THE LAND,AND THE JUDGES IN EVERY STATE SHALL BE BOUND THEREBY,ANTHING IN THE CONSTITUTION OR LAWS OF ANY STATE TO THE CONTRARY IS WITH OUT STANDING).
THE NEVADA STATE LAW THAT CONVICTED THE PETITIONER WAS IN VIOLA-TION OF THE CONSTITUTION OF THE UNITED STATES AND CAN NOT STAAD. THE REVOCATION THAT LEAD TO THIS CONVICTION CAME FROM A SENTENCE IMPOSED BY THE CARSON CITY JUSTICE COURT ON AUGUST 22,1976.THE REVOCATION WAS NOT HANDED DOWN FROM THIS CONVICTION UNTILL JUNE I977,BY THE STATE OF NEVADA NEAR ONE YEAR AFTER THE ABOVED CON-VICTION

TO RUN FOR TWO YEARS UNTILL JUNE 1979,HOWEVER THE PETITIONER DRIVERS LICENCE EXPIRED ON MARCH 6th 1978,THEREFORE UNDER LAW THE PETITIONER CAN NOT BE FOUND GUILTY OF SOMETHING THAT DO NOT EXIST, THE PETI-TIONER WAS GUILTY OF NOTHING MORE THEN DRIVING WITH OUT A DRIVERS LICENCE OF WHICH THE MAXIMUM FINE FOR THIS IN THIS STATE IS A FINE OF 100.00 DALLORS,THE PETITIONER TRYED TO PLEA GUILTY TO THIS BUT THE ABOVED COURTS WOULD NOT EXCIPT THIS,THEREFORE VIOLATHING THE 14th AMENDMENT OF THE CONSTITUTION OF THE UNITED STATES,
(NO STATE SHALL DEPRIVE ANY PERSON OF LIFE LIBERTY,NOR PROPERTY, WITH OUT THE DUE PROCESS OF LAW:NOR DENY TO ANY PERSON WITHIN ITS JURISDICTION THE EQUAL PROTECTION OF THE LAWS:)ARTICLE 8th OF THE CONSTITUTION IS VERY CLEAR(EXCESSIVE BAIL SHALL NOT BE REQUIRED, NOR EXCESSIVE FINES IMPOSED,NOR CRUEL AND UNUSUAL PUNISHMENT INFLICTED.),SINCE THE MAXIMUM FINE THAT COULD BE IMPOSED FOR DRIVING WITH OUT A LICENCE IS $100.00,IN THE STATE OF NEVADA,THE SECOND JUDICIAL DISTRICT COURT FOR THE STATE OF NEVADA IN UPHOLDING THE CONVICTION OF THE SPARKS MUNICIPAL COURT DID INFACT VIOLATE THE 8th AMENDMENT OF THE CONSTITUTION OF THE UNITED STATES, THEREFORE THE ABOVED SENTENCE IS NOT STAND AND IS OPEN FOR ATTACK:.
(2)

CONCLUSION

(1)IT IS RESPECTFULLY REQUESTED THAT THIS SUPREME COURT FOR THE STATE OF NEVADA TO SET FORT A HEARING INTO THIS MATTER AND THE RESPONDENT BE MADE TO SHOW BY WHAT LAWS THEY HOLD AS THE SUPREME LAWS OF THE LAND,AND BY WHAT LAW THEY HOLD THE PETITIONER CONVICTED OF :.

(2) IT IS ALSO REQUESTED THAT THIS COURT ISSUE AN ORDER SETTING AS ASIDE THE SENTENCE UNTILL ALL LEGAL REVENUES HAVE BEEN EXHAUSTED, THE PETITIONER PRAYS THAT THIS COURT GRANT THE PETITIONER RELIEF TO WHICH SHE IS ENTITLED IN THIS PROCEEDING:.

EXECUTED IN THE COUNTY OF CARROL OF THE STATE OF NEVADA, WHEREFORE THE PETITIONER REYNA RODRIGUES,BEING FRIST DULY SWORN UNDER OATH, PRESENT THAT SHE HAS READ AND SUBSCRIBED TO THE ABOVED AND STATES THAT THE INFORMATION THEREIN IS TRUE AND CORRECT:.

Reyna Rodrigues
REYNA RODRIGUES,PETITIONER

SUBSCRIBED AND SWORN BEFORE ME THIS 27th DAY OF JUNE 1979.

COURT CLERK

BY David Rodrigues
DAVID RODRIGUES,FOR THE PETITIONER
640 TEEL ST
SPARKS,NEVADA 89431

Apps D

ENTERED
JUN 20 1979
CLERK U S DISTRICT COURT
DISTRICT OF NEVADA
BY DEPUTY

RECEIVED
AND FILED
JUN 19 1 35 PM '79
CAROL G. FITZGERALD, CLERK
BY DEPUTY

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEVADA

REYNA RODRIGUES,

Petitioner,

vs. Civil No. R-79-129-HEC

THE STATE OF NEVADA, DECISION AND ORDER

Respondent.

/

The Petitioner, Reyna Rodrigues, has submitted a petition for writ of habeas corpus under 28 U.S.C. §2254 in which she attacks the constitutionality of a conviction in the Sparks Municipal Court.

On March 7, 1979, the Petitioner was convicted in the Sparks Municipal Court for driving with a revoked drivers license in violation of the city code. The court sentenced her to ten days in jail and fined her $400. On March 28, 1979, the Petitioner appealed to the Second Judicial Court of the State of Nevada, and a hearing was held on June 8, 1979.

The conviction in March 1979 arose out of a sentence imposed by the Carson City Justice Court on August 22, 1976, revoking the Petitioner's drivers license for a period of two years from June 1977 to June 1979. Since Reyna Rodrigues' drivers license expired on March 6, 1978, she contends that she should have been fined no more than $100 for the infraction

of operating a motor vehicle without a drivers license. Reyna Rodrigues wanted to plead guilty to that crime, but the Municipal Court Judge would not accept her plea.

The Petitioner contends that her rights have been violated under the Eighth and Fourteenth Amendments of the United States Constitution and under Article VI, §2 of the United States Constitution.

The threshold question in federal habeas corpus actions is whether the Petitioner has exhausted the available state remedies.[1/] It is the policy of this Court that before state remedies have been exhausted, the highest court of the state must have had an opportunity to pass upon the merits of the petition. Under Article VI, §6 of the State of Nevada Constitution, the Nevada Supreme Court does not have jurisdiction for appellate review of a district court judgment which was entered on an appeal from a municipal court. The Petitioner can, however, file a petition for certiorari under NRS 34.020(3). Cortez v. Mirin, 92 Nev. 198, 547 P. 2d 688 (1976).

Based on the foregoing,

IT IS HEREBY ORDERED:

1. That the petition for writ of habeas corpus, submitted by Reyna Rodrigues, is denied.

DATED: June 18, 1979.

UNITED STATES DISTRICT JUDGE

1/ Although the complaint indicates that a hearing was held on appeal in the Second Judicial District Court of the State of Nevada, it does not say whether that court has rendered a decision. I assume for purposes of this issue that it has. If it has not, this petition would also be dismissed for failure to exhaust state remedies.

LGH:4-9-79